BOMBAY ACT No. II OF 1878.[1]

[*23rd February, 1878.*]

An Act to amend Bombay Act II of 1868.

[NOTE.—The amendments made by the Act are incorporated in Bombay Act II of 1868, *supra*.]

THE BOMBAY ABKARI ACT, 1878.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1877, Pt. V, p. 193, and for Proceedings in Council, *see ibid*, pp. 300 and 416, and *ibid*, 1878, p. 10.

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BOMBAY ACT No. V OF 1878.[1]

[THE BOMBAY ABKARI ACT, 1878.]

[*19th September, 1878.*]

An Act to consolidate and amend the Abkari-law of the Presidency of Bombay.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Presidency of Bombay; It is enacted as follows:—

I.—PRELIMINARY.

Short title. **1.** This Act may be cited as the Bombay Abkari Act, 1878.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1877, Pt. V, p. 141, and *ibid*, 1878, p. 61; for Report of the Select Committee, *see ibid*, 1877, p. 310, and for Proceedings in Council, *see ibid*, 1877, pp. 263, 264, 418, 425 and 427, and *ibid*, 1878, pp. 35, 42, 68 and 69.

Bom. Act 3 of 1892 (as to mhowra flowers) is to be construed as part of Bom. Act 5 of 1878—*see* s. 1 of the Act of 1892, Vol. III of this Code.

It is also provided by s. 6 of the Act of 1892 that nothing in that Act shall be deemed to affect the operation of any law for the time being in force, or of any rule for the time being having the force of law, relating to mhowra flowers as an article of forest produce.

It extends to the whole of the Presidency of Bombay; Extent.

and it shall come into force in any portion of the said Presidency on such date[1] as Government, by notification in the Bombay Government Gazette, directs. Commencement.

2. [*Repeal of enactments.*] *Rep. Act XVI of 1895.*

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(*1*) "Abkari-revenue" means revenue derived or derivable from any duty, fee, tax, fine [2][(other than a fine imposed by a Court of law)] or confiscation imposed or ordered, under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs:

(*2*) "Abkari-officer" means a Commissioner, Collector or any officer or other person lawfully appointed, or invested with powers under section 6:

(*3*) "Commissioner" [3][includes an officer appointed by Government to be a Commissioner for the purposes of this Act]:

(*4*) "Collector" [4][includes] any person appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act:

(*5*) "Magistrate" means, in the City of Bombay, a Presidency Magistrate, and elsewhere, a Magistrate of the first or second class [5][or a Magistrate of the third class specially authorised in this behalf by the District Magistrate].

(*6*) "toddy" means juice drawn from a cocoanut, brab, date or any kind of palm-tree, whether in its fermented or unfermented state:

[6][(*7*) "liquor" includes—

(*a*) spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol; and

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[1] Bom. Act 5 of 1878 came into force in the whole of the Presidency of Bombay on the 1st January, 1879—*see* Notification No. 5756, dated 8th November, 1878, Bombay Government Gazette, 1878, Pt. I, p. 708.

[2] These words and brackets were inserted by s. 1 (*a*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] These words were substituted for the words "means, in Sind, the Commissioner in Sind and elsewhere a Commissioner of Land-revenue, or, if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] This word was substituted for the words "means a Collector of Land-revenue or" by *ibid.*

[5] These words were added by s. 1 (*b*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[6] Clause (7) was substituted by s. 1 (*c*), *ibid.*

" spirits " means any liquor containing alcohol and obtained by distillation, whether it be denatured or not,

(*b*) any other intoxicating substance which Government may by notification in the Bombay Government Gazette declare to be liquor for the purposes of this Act:]

(*8*) " country-liquor " includes all liquor produced or manufactured in India:

[1][" foreign liquor " includes all liquor imported into India by sea or land:

provided that Government may by notification in the Bombay Government Gazette declare that any specified description of country-liquor shall for the purposes of this Act be deemed to be foreign liquor:]

(*9*) " intoxicating drug " includes ganja, bhang, [2][charas] and every preparation and admixture of the same, and every intoxicating drink or substance prepared from hemp, grain or other material not included in the term " liquor ", but does not include opium or anything included within the meaning of that word as defined in the [3]* Opium Act, 1878[4] [5][and] I of 1878.

[5][" hemp " means any variety of the hemp plant from which intoxicating drugs can be produced:]

[6][provided that Government may by notification in the Bombay Government Gazette declare that any other intoxicating substance together with every preparation and admixture of the same shall be deemed to be an intoxicating drug for the purposes of this Act:]

[7][(*10*) " to import " means to bring into the Presidency of Bombay:

" to export " means to take out of the said Presidency:

" to transport " means to move from one place to another place within the said Presidency:]

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[1] This definition was added by s. 1 (*d*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] This word was inserted by s. 3 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[3] The word " Indian " was repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code.

[4] General Acts, Vol. II.

[5] The word " and " and the definition were added by s. 3 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[6] This proviso was added by s. 1 (*e*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[7] This clause was substituted by s. 1 (*f*), *ibid.*

[1][(*11*) "manufacture" includes every process, whether natural or artificial, by which any excisable article is prepared, and also every process for the rectification, flavouring, blending or colouring of liquor:]

(*12*) "ser" means a weight of eighty tolas:

[2][(*13*) "mhowra flower" does not include the berry or seed of the mhowra tree:]

[3][(*14*) "Denatured" means rendered unfit for human consumption in such manner as may be prescribed by Government by notification in the Bombay Government Gazette:]

[4][(*15*) "excisable article" means and includes any liquor or intoxicating drug as hereinbefore defined:]

[4][(*16*) in the case of foreign liquor "to battle" means to transfer from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not, and includes re-bottling:]

[4][(*17*) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree:]

[4][(*18*) "India" means British India together with any territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India.]

[5][**3A.** (*1*) Where any excisable article or hemp has been manufactured or sold or is possessed by any person on account of any other person, and such other person knew or had reason to believe at the time of such manufacture or sale that such manufacture or sale was on his account, or knows or has reason to believe that such possession is on his account, the article shall, for the purposes of this Act, be deemed to have been manufactured or sold by, or to be in the possession of, such other person. Manufacture, sale or possession by one person on account of another.

(*2*) Nothing in sub-section (*1*) shall absolve any person who manufactures, sells or has possession of an excisable article or hemp on account of another person from liability to any punishment under this Act for the unlawful manufacture, sale or possession of such article.]

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[1] Clause (*11*) was substituted by s. 1 (*g*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] Clause (*13*) was added by s. 1A of the Bombay Abkari Act Amendment Act, 1892 (Bom. Act 3 of 1892), Vol. III of this Code.

[3] Clause (*14*) was substituted by s. 2 and Sch. I, Pt. II, of the Bombay Repealing and Amending Act, 1919 (Bom. Act 2 of 1919), Vol. V of this Code.

[4] Clauses (*15*) to (*18*) were added by s. 1 (*h*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[5] Section 3A was inserted by s. 2, *ibid.*

II.—Establishment and Control.

Collectors charged with carrying out Act.

4. Subject to the control and direction of the Commissioner and the orders of Government, the Collectors are charged with the collection of the Abkari-revenue, and with the carrying out of the provisions of this Act.

For the purposes of this Act, the Collector of Bombay shall be subordinate to such Commissioner as Government directs.

Special Collectors of Abkari-revenue may be appointed.

5. Government may, by notification in the Bombay Government Gazette, appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of Government, as Government may from time to time direct.

Subordinate officers.

6. To aid the Collectors in carrying out the provisions of this Act, the Commissioners may, subject to such orders as may from time to time be passed by Government in this behalf, appoint such subordinate officers, with such designations, and assign to them respectively such powers and duties under this Act, as they deem fit.

Government, or, subject to such orders as aforesaid, the Commissioners, may invest any Government-officer in any department either personally or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act as they deem fit, and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office:

Provided that powers under sections 36 and 40, clause (*b*), shall in no case be conferred on any officer of any department who is not superior in rank to a peon, or constable, and that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority which made it.

Punishment of subordinate officers for misconduct.

7. Subject to such orders as aforesaid, the Commissioners may at any time after inquiry recorded in writing fine, dismiss, suspend or reduce any subordinate officer appointed, or any officer on whom any additional powers or duties have been conferred or imposed by them under the provisions of the last preceding section, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

Delegation of powers

8. The powers conferred on the Commissioners by the last two sections may be delegated by them, in whole or in part, to the Collectors, or to any

Collector subordinate to them, and any such delegation may be at any time cancelled by the Commissioners. by Commissioners to Collectors.

[1][III.—Import, Export and Transport.

9. (*1*) No excisable article and no hemp shall be imported unless— Import of excisable articles.

(*a*) Government has given permission, either general or special, for its import;

(*b*) such conditions, if any, as Government may impose, have been satisfied; and

(*c*) the duty, if any, imposed under section 19 has been paid or a bond has been executed for the payment thereof.

(*2*) Sub-section (*1*) shall not apply to any article which has been imported into British India and was liable on such importation to duty under the [2]Indian Tariff Act, 1894, or the [3]Sea Customs Act, 1878.

VIII of 1894.
VIII of 1878.

(*3*) Clauses (*a*) and (*b*) of sub-section (*1*) shall not apply to liquor manufactured in British India and declared by notification under clause (*8*) of section 3 to be foreign liquor.

10. No excisable article and no hemp shall be exported or transported unless— Export and transport of excisable articles.

(*a*) the duty, if any, imposed under section 19, or

(*b*) if the article was previously imported, the duty, if any, imposed on its importation under the [2]Indian Tariff Act, 1894, or the [3]Sea Customs Act, 1878,

VIII of 1894.
VIII of 1878.

has been paid, or a bond has been executed for the payment thereof.

11. Government may by notification in the Bombay Government Gazette— Power of Government to prohibit import, export and transport of excisable articles.

(*a*) prohibit the import or export of any excisable article or of hemp into or from the Bombay Presidency or any part thereof;

(*b*) prohibit the transport of any excisable article or of hemp.

12. No excisable article and no hemp exceeding such quantity as Government may prescribe by notification in the Bombay Government Gazette, either generally for the whole Presidency or specially for any local area, shall be imported, exported, or transported except under a pass issued under the provisions of the next following section: Passes necessary for import, export and transport.

[1] Chapter III was substituted by s. 3 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. II.

provided that—

(*i*) in the case of duty-paid foreign liquor other than denatured spirit such passes shall be dispensed with, unless Government shall by notification in the Bombay Government Gazette otherwise direct with respect to any local area;

(*ii*) unless Government shall otherwise direct, no pass shall be required for the import, transport and export of any excisable article or hemp conveyed under a pass issued by an officer duly authorized in this behalf from any place beyond the limits of the Bombay Presidency to any other place beyond the limits of the said Presidency.

Grant of passes for import, export and transport.

13. Passes for the import, export or transport of excisable articles or hemp may be issued by the Collector or by any other Abkari-officer duly empowered in this behalf.

Such passes may be either general for definite periods of time and definite kinds of excisable articles, or special for specified occasions and particular consignments only.

Every such pass shall specify—

(*a*) the name of the person authorized to import, export or transport excisable articles or hemp;

(*b*) the period for which the pass is to be in force;

(*c*) the quantity and description of excisable articles or hemp for which it is granted; and

(*d*) the places from and to which excisable articles or hemp are to be imported, exported or transported, and in the case of places more than ten miles apart, the route by which they are to be conveyed.]

[1][IV.—Cultivation and Manufacture.]

Licenses required for cultivation and manufacture.

[2][**14.** (*1*) Save as hereinafter otherwise provided,

(*a*) no excisable article shall be manufactured;

(*b*) no hemp shall be cultivated or collected;

(*c*) no toddy-producing tree shall be tapped;

(*d*) no toddy shall be drawn from any tree;

(*e*) no foreign liquor shall be bottled; and

[1] This heading was substituted by s. 2 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[2] Sections 14, 14A and 14B were substituted by s. 4 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

(*f*) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy,

except under the authority and subject to the conditions of a license granted in that behalf by the Collector.

(*2*) No distillery or brewery shall be constructed or worked except under the authority and subject to the conditions of a license granted in that behalf by the Commissioner under section 15.]

[1][**14A.** No person without lawful authority shall have in his possession any quantity of any excisable article or hemp knowing the same to have been unlawfully imported, exported, transported or manufactured, or knowing that the prescribed duty has not been paid thereon.] Possession of illicit articles.

[1][**14B.** (*1*) No person not being a licensed manufacturer or vendor of any excisable article or hemp and no licensed vendor except as authorised by his license shall have in his possession any quantity of any excisable article or hemp in excess of such limit as Government under section 17 may declare to be the limit of retail sale, except under a permit from the Collector: Limit of possession of excisable articles and hemp.

provided that nothing in sub-section (*1*) shall extend to any foreign liquor, other than denatured spirit, in the possession of any common carrier or warehouseman as such, or purchased by any person for his *bonâ fide* private consumption and not for sale;

(*2*) Notwithstanding anything contained in sub-section (*1*) Government may by notification in the Bombay Government Gazette prohibit the possession by any person or class of persons, either throughout the whole Presidency or in any local area, of any excisable article, either absolutely or subject to such conditions as it may prescribed.]

[2][**15.** The Commissioner may— Distilleries and warehouses.

(*a*) establish a distillery in which spirit may be manufactured in accordance with a license granted under section 14 on such conditions as Government deem fit to impose;

(*b*) discontinue any distillery so established;

(*c*) license on such conditions as Government deem fit to impose the construction and working of a distillery or brewery;

(*d*) establish or license a warehouse wherein any excisable article or hemp may be deposited and kept without payment of duty; and

(*e*) discontinue any warehouse so established.]

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[1] *See* footnote to section 14, *supra*.

[2] Section 15 was substituted by s. 5 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

Removal of excisable article from distillery, etc.

[1][**15A.** No excisable article or hemp shall be removed from any distillery, brewery, warehouse or other place of storage established or licensed under this Act, unless the duty, if any, imposed under section 19 has been paid or a bond has been executed for the payment thereof.]

V.—Sale.

Sale of liquor, hemp and intoxicating drugs prohibited without license or pass.

[2][**16.** (*1*)] Except as is hereinafter otherwise provided, no [3][excisable article or hemp] shall be sold without a license or pass from the Collector:

[4]* * * * * *

[5][[6][provided] that no such license shall be necessary for the sale—

(*1*) by a person holding a license under this Act for the possession or cultivation of hemp and making such sale in accordance with the terms of such license, or

(*2*) by a cultivator or owner of any plant other than hemp from which any intoxicating drug is produced, of those portions of the plant from which such intoxicating drug is manufactured or produced, to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs]; [7][and]

[7][(*3*) of any foreign liquor legally procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.]

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[1] Section 15A was inserted by s. 6 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] Section 16 has been numbered sub-section (*1*) of section 16 by s. 7 (*1*), *ibid.*

[3] These words were substituted for the words "liquor, no hemp and no intoxicating drug" by s. 7 (*1*) (*a*), *ibid.*

[4] The first proviso was repealed by s. 7 (*1*) (*b*), *ibid.*

[5] This proviso was substituted for the original proviso by s. 8 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[6] This word was substituted for the words "provided further" by s. 7 (*1*) (*c*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[7] The word "and" and clause (*3*) were added by s. 7 (*1*) (*d*), *ibid.*

[1][(2) On such conditions as the Commissioner may determine a license for sale under the excise law for the time being in force in other parts of British India may be deemed to be a license granted in that behalf under this Act.]

[2][**17.** (*1*) Government may by notification in the Bombay Government Gazette determine a limit of quantity within which and beyond which the sale of any excisable article or hemp shall be deemed to be sale by retail and wholesale respectively; such limit may be fixed with respect to the whole Presidency of Bombay or to any local area, and with respect to purchasers generally or to any specified class of purchasers, and with respect to any specified occasion or generally; Wholesale and retail.

(*2*) When any such limit of quantity has been prescribed for the retail sale of any excisable article or hemp, no quantity in excess of such limit shall be sold by retail to any one person at one time or to any one person in the aggregate on any one day:

provided that the Collector or any Abkari-officer duly empowered in this behalf may, subject to any rules that may be made under section 35A, give special orders for the occasional sale by retail of any excisable article or hemp in quantities exceeding such limits.]

[3][**17A.** No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf, shall sell or deliver any excisable article to any person apparently under the age of fourteen years whether for consumption by such person or by any other person and whether for consumption on or off the premises of such licensed vendor.] Prohibition of sale to children.

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy, shall sell toddy, and no person transporting or removing toddy under a permit granted under [4][section 13], shall sell the same, except— Sale of toddy.

(*a*) under a license granted under section 16, or

(*b*) to a person licensed to manufacture or sell liquor under this Act.

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[1] Sub-section (*2*) was added by s. 7 (*2*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] Section 17 was substituted by s. 8, *ibid.*

[3] Section 17A was inserted by s. 8A, *ibid.*

[4] This word and figures were substituted for the words and figures "clause (*b*) of section 12" by s. 9 (*1*), *ibid.*

Power of Government to suspend provisions relating to toddy.

[1][**18A.** [2]* * Government may from time to time, by notification in the Bombay Government Gazette, suspend [3][any or] all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without license or pass in such local area, notwithstanding anything in this Act.]

[4]V-A.—Special Provisions as to Mhowra flowers.

Special provisions as to Mhowra flowers.

[4][**18B.**[5] (*1*) Save as is provided in sub-section (3), no person shall export from or import into any prescribed area or collect, transport, sell or have in his possession within any such area any quantity of mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the terms and conditions of a license, permit or pass granted by the Collector or other officer duly empowered in this behalf.

(*2*) In this section "prescribed area" means such area, comprising either the whole or some portion of the districts of [6][Broach, [7]Kaira, Nasik (except the taluka of Peint)], Thana and Kolaba [8][and of the talukas of Pardi, Bulsar and Chikhli of the district of Surat] as the Governor in Council from time to time notifies in this behalf; and "prescribed limit" means four seers or such greater quantity as the Governor in Council from time to time notifies in this behalf.

(*3*) Provided that during the period of two months from the 16th February to the 15th April in each year or such longer period embracing the said two months as the Governor in Council from time to time by notification in the Bombay Government Gazette directs, no license, permit or pass shall be necessary for the collection, transport, sale or possession anywhere within the limits of the talukas of Kalyan, Bhiwndi, Karjat, Murbad, Shahapur and Vada or within any other portion of a prescribed

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[1] The second paragraph of section 18 has been numbered section 18A by s. 9 (*2*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] The words "provided that" were repealed by *ibid.*

[3] These words were inserted by *ibid.*

[4] This heading and section were inserted by s. 2 of the Bombay Abkari Act Amendment Act, 1892 (Bom. Act 3 of 1892), Vol. III of this Code.

[5] This section has been re-numbered by s. 9 (*2*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[6] These words were inserted by s. 1 (*a*) of the Bombay Abkari (Amendment) Act, 1905 (Bom. Act 3 of 1905), Vol. IV of this Code.

[7] This word was inserted by s. 2 (*a*) of the Bombay Abkari (Amendment) Act, 1917 (Bom. Act 3 of 1917), Vol. V of this Code.

[8] These words were inserted by s. 1 (*b*) of the Bombay Abkari (Amendment) Act, 1905 (Bom. Act 3 of 1905), Vol. IV of this Code.

area which the Governor in Council thinks fit in a notification as aforesaid to specify, of any quantity of mhowra flowers which are the produce of that year and of the said talukas or of any or of either of them or other portion of a prescribed area, if any, so specified.]

[1][Provided further that during the period of five months from the 16th February to the 15th July in each year or such longer period embracing the said five months as the Governor in Council from time to time by notification in the Bombay Government Gazette directs, no license, permit or pass shall be necessary for the collection, transport, sale or possession, anywhere within the limits of the district of Kaira, of any quantity of mhowra flowers which are the produce of that year.]

VI.—Duties.

[2][**19.** A duty at such rate or rates as Government shall direct may be imposed, either generally or for any specified local area, on any excisable article— Duties on import, export, transport and manufacture.

(*a*) imported in accordance with the provisions of sub-section (*1*) of section 9; or

(*b*) exported or transported in accordance with the provisions of section 10; or

(*c*) manufactured under a license granted in accordance with the provisions of section 14 or section 15:

provided that—

(*i*) duty shall not be so imposed on any article which has been imported into British India and was liable on such importation to duty under the [3]Indian Tariff Act, 1894, or the [4]Sea Customs Act, 1878;

VIII of 1894.
VIII of 1878.

(*ii*) the duty on denatured spirits or beer manufactured in India shall, unless Government [5]* * * * otherwise directs, be equal to the duty to which denatured spirits or beer respectively imported into British India by sea are or is liable under the [3]Indian Tariff Act, 1894, or any other law for the time being in force relating to the duties of customs on goods imported into British India.

VIII of 1894.

Explanation.—Duty may be imposed under this section at different rates according to the places to which any excisable article

[1] This proviso was added by s. 2 (*b*) by the Bombay Abkari (Amendment) Act, 1917 (Bom. Act 3 of 1917), Vol. V of this Code.

[2] Sections 19 and 19A were substituted by s. 10 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] General Acts, Vol. IV.

[4] General Acts, Vol. II.

[5] The words "with the previous sanction of the Government of India" were repealed by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

is to be removed for consumption, or according to the varying strengths and quality of such article.]

Manner of levying duty.

[1][**19A.** Subject to any rules to regulate the time, place and manner of payment made by the Commissioner in this behalf, the duty referred to in the foregoing section may be levied in one or more of the following ways:—

(*a*) in the case of excisable articles imported in accordance with the provisions of sub-section (*1*) of section 9—

(*i*) by payment either in the province of import or in the province or territory of export; or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under section 15;

(*b*) in the case of excisable articles exported in accordance with the provisions of section 10, by payment either in the province of export or in the province or territory of import;

(*c*) in the case of excisable articles transported in accordance with the provisions of section 10—

(*i*) by payment in the district from which they are transported;

(*ii*) by payment upon issue for sale from a warehouse established or licensed under section 15;

(*d*) in the case of spirit or beer manufactured in any distillery, established or any distillery or brewery licensed under section 15—

(*i*) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under section 15; or

(*ii*) by a rate charged in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as Government may prescribe;

(*e*) in the case of intoxicating drugs manufactured in accordance with the provisions of section 14, by payment upon the quantity produced or manufactured in accordance with the provisions of section 14 or issued from a warehouse established or licensed under section 15:

Provided that where payment is made upon issue for sale from a warehouse established or licensed under section 15 such payment shall be at the rate of the duty in force at the date of issue from the warehouse:

[1] *See* footnote to section 19, *supra*.

Provided further that where one and the same person is permitted—

(*i*) to manufacture or import and to sell, or

(*ii*) to manufacture and export country liquor or any intoxicating drug,

such duty may be levied in consideration of the joint privileges granted as the Collector, acting under the general or special orders of Government, deems fit.]

Duty on tapping of toddy trees.

20. For every toddy-producing tree from which toddy is drawn there shall, if Government so direct, be levied for any period during which such tree is tapped [1][or licensed to be tapped] such duty as Government from time to time directs;

and every license for drawing toddy granted under section 14 shall specify, in addition to any other particulars prescribed by Government under section 30,—

(*a*) the number, description and situation of the trees to be tapped;

(*b*) the amount of duty to be levied in respect of each tree included in the license;

(*c*) the instalments, if any, in which and the periods at which the said duty shall be leviable.

Duty by whom payable.

21. The said duty shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees.

Owner entitled to assistance in recovering from licensee duty paid by him.

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the license under the provisions of the law for the time being in force relating to the recovery by superior land-holders of their dues from their tenants.

Farming of right of drawing toddy within local area.

23. It shall be lawful for the Government within any local area to which they shall deem fit to apply the provisions of this section, instead of directing the levy of a duty under section 20 on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

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[1] These words were inserted by s. 11 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

24. [*Levy of tax or fee on toddy trees prior to Act legalized.*] *Rep. Bom. Act XII of 1912, s. 12.*

Privilege of drawing toddy from Government trees.

25. The privilege of drawing toddy from trees the right to which vests in Government may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of Government, deems fit.

26. [*Adjustment of duty when joint privileges are conceded.*] *Rep. Bom. Act XII of 1912, s. 12.*

27. [*Duty on intoxicating drugs.*] *Rep. Bom. Act XII of 1912, s. 12.*

27A. [*Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom. Temporary licensing of village warehouses.*] *Rep. Bom. Act XII of 1912, s. 12.*

27B. [*Payment of warehouse-dues.*] *Rep. Bom. Act XII of 1912, s. 12.*

27C. [*Period during which intoxicating drugs may remain warehoused.*] *Rep. Bom. Act XII of 1912, s. 12.*

27D. [*Power to remove intoxicating drugs from one warehouse to another.*] *Rep. Bom. Act XII of 1912, s. 12.*

27E. [*Power of Government to make rules.*] *Rep. Bom. Act XII of 1912, s. 12.*

28. [*Duties may be farmed.*] *Rep. Bom. Act XII of 1912, s. 12.*

Farmer may apply to Collector to recover amounts due to him.

29. When any amount is due to [1]* * * any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

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[1] The words " any such farmer from such farmer's licensee in respect of a license, or to " were repealed by s. 13 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the Civil Court or otherwise any amount due to him from any such person as aforesaid.

VII.—LICENSES, ETC.

Form and conditions of licenses, etc.

[1][**30.** Every license, permit or pass granted under this Act shall be granted on payment of such fees, if any, and subject to such restrictions, and on such conditions, and shall be in such form and contain such particulars, and may, in case any fee or duty payable by the holder be not duly paid, impose liability for interest thereon at such rate, as Government in the case of licenses and the Commissioner in the case of permits and passes, may direct in rules or orders made either generally or in any particular instance in this behalf, such rules or orders being not inconsistent with this Act.]

Counterpart agreement to be executed and security to be given by licensees.

31. Every person taking out a license for the manufacture or sale of any [2][excisable article or hemp] under this Act shall execute a counterpart agreement in conformity with the tenor of his license, and shall give such security for the performance of his agreement as the Collector may require.

[3][And every person taking out a license to cultivate hemp under this Act shall, if called upon by the Collector so to do, give such security for the observance of the conditions of such license as the Collector may require.]

Cancellation of license, permit or pass.

[4][**32.** (*1*) Subject to such restrictions as Government may prescribe, the authority granting any license, permit or pass under this Act may cancel or suspend it—

(*a*) if any duty or fee payable by the holder thereof be not duly paid; or

(*b*) in the event of any breach by the holder of such license, permit or pass or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such license, permit or pass, or of any license, permit or pass previously held by such holder; or

(*c*) if the holder thereof, or any person in the employ of such holder or any person acting with his express or implied per-

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[1] Section 30 was substituted by s. 14 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] These words were substituted for the words "liquor or intoxicating drug" by s. 15, *ibid.*

[3] This paragraph was added by s. 11 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[4] Sections 32, 32A and 32B were substituted by s. 16 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

mission on his behalf is convicted of any offence under this Act or any law for the time being in force relating to Abkari-revenues, or if the holder of the license, permit or pass is convicted of any cognizable and non-bailable offence, or of any offence under the Indian Merchandise Marks Act, 1889, IV of 1889. or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, 1860, or of any offence XLV of 1860. punishable under No. 8 of the schedule to section 167 of the Sea Customs Act, 1878. VIII of 1878.

(*2*) When a license, permit or pass held by any person is cancelled under clause (*a*) or clause (*b*) of sub-section (*1*), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Act or under any other law for the time being in force relating to Abkari-revenue or under the Opium Act, 1878. I of 1878.

(*3*) The holder shall be entitled to no compensation for the cancellation or suspension of his license, permit or pass under this section, nor to refund of any fee paid or deposit made in respect thereof.]

Cancellation for other reasons.

[1][**32A.** (*1*) Whenever the authority granting a license considers that it should be cancelled for any cause other than those specified in section 32, he may cancel the license either—

(*a*) on the expiration of not less than 15 days' notice in writing of his intention to do so; or

(*b*) forthwith without notice.

(*2*) When a license is cancelled under sub-section (*1*) the authority cancelling the license shall pay to the licensee a sum equal to the amount of the fees payable in respect thereof for fifteen days and such further sum in compensation as the Commissioner may direct.

(*3*) When a license is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to Government.]

Attachment of license.

[1][**32B.** Notwithstanding anything contained in section 32 when a license is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof the authority granting the license may attach and take such license under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the license was attached and the amount falling due on such license during the remaining period of such license, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the foregoing provisions of this Act, and in the event

[1] *See* footnote to section 32, *supra*.

of the said profits exceeding the amount so due under the license, the licensee shall not be entitled to receive any of the said profits.]

VIII.—General Provisions.

Certain licensees required to keep measures, etc.

33. Every person who manufactures or sells [1][any excisable article] under a license granted under this Act shall be bound—

(*a*) to supply himself with such measures [2][and weights] and with such instruments for testing the strength or quality of liquor as the Collector prescribes, and to keep the same in good condition, and

(*b*) on the requisition of any Abkari officer duly empowered in this behalf at any time to measure, [3][weigh, or test any excisable article] in his possession in such manner as the said Abkari officer may require.

Recovery of duties, etc.

34. All duties, taxes, fines and fees leviable under any of the foregoing provisions of this Act or of any license, permit or pass issued under it, and all amounts due from any farmer under this Act, may be recovered from [4][any person liable] to pay the same, or from his surety (if any) as if they were arrears of land-revenue.

IX.—Powers of Abkari-officers.

Power of Government to frame rules.

[5][**35.** (*1*) Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to Abkari-revenue.

(*2*) In particular and without prejudice to the generality of the foregoing provision, Government may make rules—

(*a*) regulating the delegation of any powers by the Commissioner or by Collectors;

(*b*) prescribing the powers and duties of officers of the Abkari Department;

(*c*) regulating the import, export or transport of any excisable article or hemp;

(*d*) regulating the periods and localities for which licenses for the wholesale or retail vend of any excisable article or hemp may be granted;

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[1] These words were substituted for the word "liquor" by s. 17 (*a*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] These words were inserted by s. 17 (*b*), *ibid.*

[3] These words were substituted for the words "out or test the strength or quality of any liquor" by s. 17 (*c*), *ibid.*

[4] These words were substituted for the words "the person primarily liable" by s. 18, *ibid.*

[5] Sections 35 and 35A were substituted by s. 19, *ibid.*

(*e*) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any license for such vend is granted for any locality;

(*f*) prohibiting the employment by the license-holder of any person or class of persons to assist him in his business in any capacity whatsoever;

(*g*) prescribing the persons or classes of persons to whom any excisable article may or may not be sold;

(*h*) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting or remaining of persons of bad character on such premises;

(*i*) regulating the grant of expenses to persons called on to give information in investigations conducted by Abkari officers, and of compensation to persons charged with offences punishable under this Act and acquitted.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication:

Provided that any such rules may be made without previous publication if Government consider that they should be brought into force at once.]

Power of Commissioner to frame rules.

[1][**35A.** The Commissioner may make rules—

(*a*) regulating the manufacture, supply or storage of any excisable article or hemp including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article or hemp, and the fittings, implements and apparatus to be maintained therein;

(*ii*) the cultivation of hemp and the collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth;

(*iii*) the tapping of toddy-producing trees and the drawing of toddy from such trees;

(*iv*) the bottling of foreign liquor;

(*b*) regulating the deposit of any excisable article or hemp in a warehouse and the removal of such article from any such warehouse or from any distillery or brewery;

(*c*) prescribing in the case of any excisable article the way in which the duty on such article shall be levied;

(*d*) prescribing the scale of fees or the manner of fixing the fees payable in respect of any privilege, license, permit or pass or of the storing of any excisable article or hemp;

(*e*) regulating the time, place and manner of payment of any duty or fee;

[1] *See* footnote to section 35, *supra*.

(*f*) prescribing the restrictions under and the conditions on which any license, permit or pass may be granted, including—

(*i*) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable;

(*ii*) the fixing of the strength, price or quantity in excess of or below which any excisable article shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any excisable article;

(*iii*) the prohibition of sale except for cash;

(*iv*) the prescription of the days and hours during which any licensed premises may or may not be kept open and provision for the closure of such premises on special occasions;

(*v*) the prescription of the nature of the premises on which any excisable article may be sold and the notices to be exposed at such premises;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by license-holders;

(*vii*) the regulation or prohibition of the transfer of licenses;

(*g*) (*i*) declaring the process by which spirits shall be denatured in the areas to which this Act extends;

(*ii*) for causing such spirits to be denatured through the agency or under the supervision of Government officers;

(*iii*) for ascertaining whether such spirits have been denatured;

(*h*) providing for the destruction or other disposal of any excisable article deemed to be unfit for use;

(*i*) regulating the disposal of confiscated articles;

(*j*) prescribing the occasions on which special orders may be granted under section 17 for the sale by retail of larger quantities of country liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;

(*k*) prescribing the amount of security to be deposited by the holder of any license, permit or pass for the performance of the conditions for the same.]

Powers exercisable by Abkari-officers on information that liquor,

[1]**36.** Any Commissioner or Collector, or other Abkari officer duly empowered in this behalf, may—

(*a*) enter and inspect, at any time by day or by night, [2][any land on which toddy-producing trees are growing, whether such

[1] For notifications issued under this section, *see* Bombay Local Rules and Orders.

[2] These words were inserted by s. 20 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

etc., is unlawfully manufactured, etc.

trees are licensed for tapping or not, and] any [1][warehouse,] shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of [2][any excisable article or hemp] or draws toddy, or stores [3][any excisable article or hemp] and examine, test, measure or weigh any such person's stock of [4][any excisable article or hemp] or materials; or

(*b*) enter, at any time by day or by night, any building, vessel, [5][vehicle] or enclosed place in which he has reason to believe that [6][any excisable article or hemp] liable to confiscation under this Act is manufactured, kept or concealed or that toddy is drawn, or that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing [7][any excisable article] contrary to the provisions of this Act; and

(*c*) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel, [5][vehicle] or other place; and

(*d*) seize [8][any excisable article or hemp] and any material used in the manufacture thereof, and any still, utensil, implement or apparatus, and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to abkari-revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to abkari-revenue.

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[1] This word was inserted by s. 13 of the Bombay Abkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[2] These words were substituted for the words "any liquor, hemp or intoxicating drug" by s. 20 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] These words were substituted for the words "any such liquor, hemp or drug" by *ibid.*

[4] These words were substituted for the words "liquor, hemp, drugs" by *ibid.*

[5] This word was inserted by *ibid.*

[6] These words were substituted for the words "liquor, hemp or any intoxicating drug" by *ibid.*

[7] These words were substituted for the words "liquor or any intoxicating drug" by *ibid.*

[8] These words were substituted for the words "any liquor, hemp or drug" by *ibid.*

Power to seize liquor, etc., in open places, and to detain, search and arrest.

37. Any Commissioner or Collector, or other Abkari officer duly empowered in this behalf, may—

(*a*) seize in any open place or in transit, any [1][excisable article, hemp] or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to Abkari-revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law and, if such person has any [2][excisable article, hemp] or other thing in his possession, arrest him.

Searches how made.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure.[3]

Arrest without warrant.

[4][**38A.** Any Commissioner or Collector or Abkari-officer duly empowered in this behalf may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duty under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.]

Disposal of person arrested.

[4][**38B.** Subject to the provisions as to bail hereinafter contained every person arrested under section 38A shall without unnecessary delay be taken or sent by the person arresting him before a Magistrate having jurisdiction in the case or before the officer in charge of a Police-station.]

V of 1898

Procedure.

[4][**38C.** The provisions of section 61 of the [5]Code of Criminal Procedure, 1898, shall apply to all arrests made without warrant by Abkari-officers.]

Refusal to give name and residence.

[4][**38D.** (*1*) When any person who in the presence of any officer of the Abkari Department of such rank as Government may prescribe has committed or has been accused of committing an offence under this Act refuses, on demand of such officer, to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

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[1] These words were substituted for the words "liquor, hemp or intoxicating drug" by s. 21 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] These words were substituted for the words "such liquor, hemp, drug" by *ibid.*

[3] *See* now Act V of 1898, General Acts, Vol. V.

[4] Sections 38A, 38B, 38C and 38D were inserted by s. 22 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[5] General Acts, Vol. V.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.]

Officers bound to assist.

[1][**39.** All village officers, all village servants useful to Government and all officers of the departments of Police, Forest, Customs, Salt and Revenue and of the Bombay, Karachi and Aden Port Trusts, shall be bound—

(*a*) to give immediate information to an Abkari-officer of the commission of any offence, and of the intention or preparation to commit any offence, under this Act which may come to their knowledge;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed;

(*c*) to assist any Abkari officer in carrying out the provisions of this Act.]

Duty of landholders and others to give information.

[1][**39A.** Every owner or occupier of land and the agent of any such owner or occupier of land on which there shall be any manufacture of any excisable article not licensed under this Act, or the unlawful cultivation or collection of any plant from which an intoxicating drug can be produced, shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the departments of Abkari, Police or Revenue immediately the same shall have come to his knowledge.]

Issue of warrants.

40. Any Commissioner, or Collector, or other Abkari officer duly empowered in this behalf, or a Magistrate, may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to Abkari-revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any [2][excisable article or hemp] is manufactured or sold, or that any toddy is drawn contrary to the provisions of this Act, or that any [2][excisable article or hemp] or other thing liable to confiscation under this or any other law for the time being in force relating to Abkari-revenue is kept or concealed.

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[1] Sections 39 and 39A were substituted by s. 23 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] These words were substituted for the words "liquor, hemp or intoxicating drug" and "liquor, hemp, intoxicating drug" by s. 24, *ibid.*

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure,[1] by a Police-officer or by an Abkari-officer duly empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

Certain Abkari-officers to have powers of investigation.

[2][**41.** (*1*) Every Abkari-officer not below such rank as Government may prescribe shall within the area for which he is appointed have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall in the conduct of such investigation exercise the powers conferred by the [3]Code of Criminal Procedure, 1898, upon an officer in charge of a Police-station for the investigation of a cognizable offence:

Provided that—

(*i*) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report;

(*ii*) the powers of an officer empowered under this section shall be subject to such further modifications or restrictions as Government may prescribe.]

Procedure on arrest.

[2][**41A.** Every person arrested and thing seized under section 36, 37 or 40 shall, unless the arrest or seizure has been made by an Abkari-officer exercising powers under section 41, be forwarded without delay to the nearest Abkari-officer exercising such powers, or, if there be no such officer within a reasonable distance, to the officer in charge of the nearest Police-station.]

Bail.

[2][**41B.** (*1*) Any Abkari-officer empowered to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the [3]Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence punishable under this Act.

V of 1898.

(*2*) When any person has been arrested under section 38A for a bailable offence punishable under the [4]Indian Penal Code any Abkari-officer empowered under sub-section (*1*) to grant bail shall have power to grant bail to such person in accordance with the provisions of the [3]Code of Criminal Procedure, 1898.]

XLV of 1860.

V of 1898.

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[1] *See* now Act V of 1898, General Acts, Vol. V.

[2] Sections 41, 41A, 41B and 41C were substituted by s. 25 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] General Acts, Vol. V.

[4] General Acts, Vol. I.

Articles seized.

[1][41C. When anything has been seized by an Abkari-officer exercising powers under section 41 or has been sent to him in accordance with the provisions of section 41A, such officer, after such inquiry as may be necessary,—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested,—shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid,—shall send it with a full report of the particulars of the seizure to the Collector,

(*c*) if no offence appears to have been committed,—shall return it to the person from whose possession it was taken.]

Closing of shop for sake of public peace.

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which [2][any excisable article] is sold by retail shall be closed at such time as he may deem it necessary for the sake of public peace and order that such shop should remain closed.

[3][If a riot or unlawful assembly is imminent or occurring] in the vicinity of any such shop, it shall be lawful for any Magistrate or Police-officer who is present to require such shop to be kept closed for such period as he deems fit.

X.—Penalties.

For illegal import, etc.

43. [4][(*1*) Whoever in contravention of this Act or of any rule or order made under this Act or of any license, permit or pass obtained under this Act—

(*a*) imports, exports, transports or possesses any excisable article or hemp, or

(*b*) manufactures any excisable article, or

(*c*) cultivates or collects hemp, or

(*d*) taps any toddy-producing tree, or

(*e*) draws toddy from any tree, or

(*f*) constructs or works any distillery or brewery, or

(*g*) bottles any foreign liquor, or

(*h*) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy, or

(*i*) sells any excisable article or hemp,

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[1] *See* the 2nd footnote on preceding page.

[2] These words were substituted for the words "liquor or any intoxicating drug" by s. 26 (*a*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] These words were substituted for the words "in the event of the occurrence of a riot or unlawful assembly" by s. 26 (*b*), *ibid.*

[4] Sub-section (*1*) was substituted by s. 27, *ibid.*

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that when any person is convicted under this sub-section of any offence committed in respect to cocaine or any of the synthetics thereof, he shall be punished on first conviction with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and on any subsequent conviction with imprisonment for a term which may extend to two years or with fine which may extend to four thousand rupees, or with both.]

[1][(2) Whoever, in contravention of this Act or of any rule or order made under this Act or of any license, permit or pass granted under this Act, imports, exports, collects, transports, sells or has in his possession mhowra flowers shall be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment which may extend to three months, or with both: Provided that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.]

Penalty for the keeping or letting of premises for a cocaine offence.

[2][**43A.** Whoever lets or uses any house, room or place, of which he is the owner or occupier or of which he has the use, in such circumstances as to indicate that he knows or has reason to believe that such house, room or place is used as a resort of importers, exporters, transporters, possessors or vendors of cocaine or any of the synthetics thereof in contravention of any of the provisions of this Act shall be punished on first conviction with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both and on any subsequent conviction with imprisonment for a term which may extend to two years or with fine which may extend to four thousand rupees or with both.]

Security for abstaining from cocaine offences.

[2][**43B.** (*1*) Whenever any person accused of any offence under this Act in respect of cocaine or any of the synthetics thereof is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class, and such court is of opinion that it is necessary to require such person to execute a bond for abstaining from offences under this Act in respect of cocaine or any of its synthetics, such court may at the time of passing sentence on such person order him to execute a bond for a sum proportionate to his means with or without

[1] Sub-section (*2*) was added by s. 3 of the Bombay Abkari Act Amendment Act, 1892 (Bom. Act 3 of 1892), Vol. III of this Code.

[2] Sections 43A and 43B were inserted by s. 3 of the Bombay Abkari (Amendment) Act, 1917 (Bom. Act 5 of 1917), Vol. V of this Code.

sureties for abstaining from such offences during such period not exceeding three years as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an appellate court or by the High Court when exercising its powers of revision.

(4) The proceedings subsequent to the making of any order under this section shall be regulated as nearly as may be by the provisions of sections 120, 122, 123, 124, 125 and 126 of the [1]Code of Criminal Procedre, 1898, as if such order had been made under section 106 of the said code, and the provisions of sections 513, 514 and 515 of the said code shall so far as may be apply to bonds executed under this section.] V of 1898.

For neglect to keep measures, etc.

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,—

(*a*) neglects to supply himself with measures [2][and weights] for measuring [2][and weighing] [3][any excisable article] or with instruments for testing the strength of liquor, or to keep the same in good condition, or

(*b*) refuses to measure, [4][weigh] or test [5][any excisable article] in his possession,

shall be punished for each such offence with fine which may extend to two hundred rupees.

For misconduct by licensee, etc.

45. Whoever, being the holder of a license, permit or pass granted under this Act [6][or a person in the employ of such holder or acting with his express or implied permission on his behalf]—

(*a*) fails to produce such license, permit or pass on the demand of any [7][duly empowered officer either of the Abkari Department or of any of the departments named in section 39, if such license, permit or pass is in his possession or control]. or

(*b*) wilfully does, or omits to do, anything in contravention of any rules or orders made under this Act, or

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[1] *General Acts*, Vol. V.

[2] These words were inserted by s. 23 (*a*) of the Bombay Abkari (Amendment) Act, 1912 (*Bom. Act 12 of 1912*), Vol. V of this Code.

[3] These words were substituted for the word "liquor" by *ibid.*

[4] This word was inserted by s. 28 (*b*), *ibid.*

[5] These words were substituted for the words "the strength or quality of any liquor" by *ibid.*

[6] These words were inserted by s. 29 (*a*), *ibid.*

[7] These words were substituted for the words "Abkari-officer duly empowered to make such demand, or of any officer of the departments named in section 39, superior in rank to a peon or constable" by s. 29 (*b*), *ibid.*

(*c*) [1][wilfully does, or omits to do, anything] in breach of any of the conditions of [2][such license, permit or pass] not otherwise provided for in this Act

[3]* * * * * * *

[4][shall, on conviction before a Magistrate, be punished for each such offence with imprisonment which may extend to three months or with fine which may extend to two hundred rupees or with both.]

Penalty for offences not otherwise provided for.

[5][**45A.** Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall on conviction before a Magistrate be punished for each such act or omission with fine which may extend to two hundred rupees.]

For misconduct by licensed vendor or manufacturer.

46. [6][Whoever, being the holder of a license for the sale or manufacture of any excisable article under this Act, or a person in the employ of such holder or acting with his express or implied permission in his behalf]

(*a*) mixes or permits to be mixed with the [7][excisable article] sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under [8][clause (*f*) (*i*) of section 35A,] [9][or water except for the purpose of reducing liquor to the strength prescribed in the license, or any diluting or colouring substance or any ingredient whatsoever likely to render the excisable article inferior in quality whether such ingredient is or is not prohibited as aforesaid] when such admixture shall not amount to the offence of adulteration under section 272 of the [10]Indian Penal Code, or

XLV of 1860.

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[1] These words were substituted for the words "commits any act" by s. 2 and Sch. I of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[2] These words were substituted for the words "his license" by s. 29 (*c*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] Clauses (*d*), (*e*), (*f*) and (*g*) and the word "or" at the end of clause (*c*) were repealed by s. 29 (*d*), *ibid.*

[4] These words were substituted for the words "shall be punished for each such offence with fine which may extend to one hundred rupees" by s. 29 (*e*), *ibid.*

[5] Section 45A was inserted by s. 30, *ibid.*

[6] These words were substituted for the words "Whoever being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act" by s. 31 (*a*), *ibid.*

[7] These words were substituted for the words "liquor or intoxicating drug" by s. 31 (*b*) (*i*), *ibid.*

[8] These words were substituted for the words "section 35, cl. (*h*)" by s. 31 (*b*) (*ii*), *ibid.*

[9] These words were inserted by s. 31 (*b*) (*iii*), *ibid.*

[10] General Acts, Vol. I.

(*b*) sells or keeps, or exposes for sale as [1]* * * foreign liquor. liquor which he knows or has reason to believe to be country-liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country-liquor, or uses any bottle, case, package or other receptacle containing country-liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains [1]* * * foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the [2]Indian Penal Code, or XLV of 1860.

(*d*) sells or keeps or exposes for sale, any country-liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains [1]* * * foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the [2]Indian Penal Code, XLV of 1860.

[3][or]

[3][(*e*) sells any excisable article which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any excisable article which is not of the nature, substance and quality authorized by the terms of the license to be kept for sale by the holder of the license,]

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Liability of licensee for acts of servants.

[4][**47.** The holder of a license, permit or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission in his behalf under section 43, 44, 45, 45A or 46 as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.]

For maliciously giving false information.

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the intent that such person be arrested, or that any building, vessel or

[1] The words "European or" were repealed by s. 31 (*c*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] General Acts, Vol. I.

[3] The word "or" at the end of clause (*d*) and clause (*e*) were inserted by s. 31 (*d*), *ibid.*

[4] Section 47 was substituted by s. 32, *ibid.*

other place be searched to the injury or annoyance of such person or of any other person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For vexatious search or arrest.

49. Any Abkari or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

Failure of Abkari-officer in duty.

[1][**49A.** Any Abkari-officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless with the express written permission of the Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall on conviction before a Magistrate be punished with imprisonment which may extend to three months, or with fine which may extend to three months' pay, or with both.]

Vexatious delay in forwarding to a Magistrate a person arrested under s. 38A.

[2][**50.** Any Abkari or other officer or person who vexatiously and unnecessarily delays forwarding to a Magistrate or to the officer in charge of a Police-station as required by section 38B any person arrested under section 38A shall be punished with fine which may extend to two hundred rupees.]

Vexatious delay in acting in the manner required by s. 41A or 41C.

[2][**50A.** Any Abkari or other officer or person who vexatiously and unnecessarily delays acting in the manner required by section 41A or 41C with respect to any person arrested, or any illicit article seized under this Act, shall be punished with fine which may extend to two hundred rupees.]

For conniving at escape of persons arrested, etc.

51. Any Abkari or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkari-revenue defrauded,

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[1] Section 49A was inserted by s. 33 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] Sections 50 and 50A were substituted by s. 34, *ibid.*

and any officer named in section 39 invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

For neglecting to assist an Abkari-officer.

52. Any officer [2]* * * named in section 39 who, without lawful excuse, neglects or refuses to [3][give information or to take preventive measures or to give assistance to an Abkari-officer in the manner required by the said section] shall be punished with fine which may extend to five hundred rupees.

Presumption as to commission of offence in certain cases.

53. In prosecutions under section 43 [4]* * * it shall be presumed [5][without further evidence] until the contrary is proved, that the accused person has committed an offence under [6][that section] in respect of [7][any excisable article or hemp] or any still, utensil, implement or apparatus whatsoever for the manufacture of [8][any excisable article] [9][or mhowra flowers,] or any such materials as are ordinarily used in the manufacture of [8][any excisable article] for the possession of which he is unable to account satisfactorily.

[10]* * * * * *

Things liable to confiscation.

[11][**54.** Whenever an offence under this Act has been committed,

(*a*) any excisable article, hemp, mhowra flowers, materials, still, utensil, implement or apparatus in respect of which the offence has been committed;

(*b*) any excisable article, hemp or mhowra flowers lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any article liable to confiscation under clause (*a*);

(*c*) the receptacles, packages and coverings in which any article liable to confiscation under clause (*a*) or clause (*b*) is found

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[1] The words " of any other department " were repealed by s. 34A of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[2] The words " of any of the departments " were repealed by s. 35, *ibid.*

[3] These words were substituted for the words " assist any Abkari-officer in carrying out the provisions of this Act " by *ibid.*

[4] The words and figures " or section 47 " were repealed by s. 36 (*a*), *ibid.*

[5] These words were inserted by s. 36 (*b*), *ibid.*

[6] These words were substituted for the words " those sections " by s. 36 (*c*), *ibid.*

[7] These words were substituted for the words " any liquor or hemp or intoxicating drug " by s. 36 (*d*), *ibid.*

[8] These words were substituted, respectively, for the words " liquor or intoxicating drugs " and " liquor or of any intoxicating drug " by s. 36 (*e*), *ibid.*

[9] These words were inserted by s. 4 of the Bombay Abkari Act Amendment Act, 1892 (Bom. Act 3 of 1892), Vol. III of this Code.

[10] The second paragraph was repealed by s. 36 (*f*) of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[11] Sections 54, 55 and 55A were substituted by s. 37, *ibid.*

and the other contents of such receptacles, packages and coverings, and the animals, carts, vessels or other conveyance used in carrying any such article;

shall be liable to confiscation.]

Procedure in confiscation.

[1][55. (*1*) When in any case tried by him the Magistrate decides that anything is liable to confiscation under the foregoing section, he may, after hearing the person, if any, claiming any right thereto, and the evidence, if any, which he produces in support of his claim, order confiscation, or, in the case of any article other than an excisable article or hemp, may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he produces in support of his claim:

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of the owner, the Collector may at any time direct it to be sold, and the provisions of this sub-section shall apply so far as may be to the net proceeds of the sale:

Provided further that in the case of anything liable to speedy and natural decay the Collector may, if the circumstances so require, direct it to be destroyed.

(*3*) The Collector may delegate his powers under this section to any Assistant or Deputy Collector, either by name or in virtue of his office.]

Compounding offences.

[1][**55A.** Any Commissioner or Collector, or any Abkari-officer specially empowered by Government in this behalf, may accept from any person whose license, permit or pass is liable to be cancelled or suspended under clause (*a*) or clause (*b*) of section 32, or who is reasonably suspected of having committed an offence under section 43, 44, 45, 45A or 46, a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property other than an excisable article or hemp has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer:

[1] *See* footnote to section 54, *supra*.

Provided that where a person who is reasonably suspected of having committed an offence under section 43 or 45A is not the holder of a license, permit or pass granted under this Act, or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed two hundred rupees.

On the payment by such person of such sum of money, or such value, or both, as the case may be, to such officer, such person, if in custody, shall be set at liberty and the property seized shall be released, and if magisterial proceedings shall have been instituted against such person the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.]

XI.—Procedure.

Cognizance of offences.

56. All offences against this Act shall be cognizable by a Magistrate.

57. [*Applicability of certain portions of Indian Penal Code.*] *Rep. Bom. Act III of 1886.*

58. [*Disposal of things confiscated.*] *Rep. Bom. Act XII of 1912.*

58A. [*Procedure in case of illegal cultivation of hemp.*] *Rep. Bom. Act XII of 1912.*

59. [*Payment of rewards.*] *Rep. Bom. Act XII of 1912.*

Appeals.

60. All orders passed by any Abkari-officer other than the Collector or Commissioner under this Act shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

All orders passed by a Collector or Commissioner shall be appealable to the Commissioner or to Government, respectively, at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by a Commissioner on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

XII.—Miscellaneous.

Saving of certain Acts.

61. Nothing in this Act affects [1]Act XVIII of 1853 (*an Act for regulating the sale of spirituous liquors, etc., in cantonments*) or sections twenty-one to twenty-seven, both inclusive, of Bombay [1]Act III of 1867 (*an Act to make provision for the administration of Military Cantonments in the Bombay Presidency*), [2]* * * * or any enactment passed by

[1] *See* now the Cantonments Act, 1910 (15 of 1910), General Acts, Vol. VII.

[2] The words and figures "or Act XVI of 1863 (*an Act to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufactures or in chemistry*)" were repealed by s. 39 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

the Governor General in Council since the 16th November, 1861, the date on which the [1]Indian Councils Act came into force.

Exception of medicated articles.

62. Nothing in the foregoing provisions of this Act applies to the manufacture, sale or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for Government at any time, by notification in the Bombay Government Gazette, to prohibit the sale of any such article [2][or class of such article] within any defined local area or place [2][or generally] except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

Annual payment to Bombay Municipal Corporation in lieu of money received under Bombay Act IX of 1867.

63. Whereas it was provided by section 14 of [3]Bombay Act IX of 1867 that all money realized, collected or obtained, by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the municipal fund of the City of Bombay for municipal purposes, it is hereby enacted that, in lieu of the money hitherto so received by the Municipal Corporation of the City of Bombay, a fixed sum of Rs. 1,43,750 shall, from and after the first day of August, 1878, be annually paid by Government to the said Corporation for the said purposes.

Publication of rules.

[4][**64.** All rules made under any power conferred by this Act shall be published in the Bombay Government Gazette and on such publication shall have effect as if enacted in this Act.]

65 & 66. [*Certain rights to cease.*] *Rep. Act XVI of 1895.*

Bar of action.

67. No action shall lie against Government or against any Abkari-officer for damages in any Civil Court for any act *bonâ fide* done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to Abkari-revenue;

and all prosecutions of any Abkari-officer, and all actions which may be lawfully brought against Government or against any Abkari-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of and not afterwards:

and any such action shall be dismissed—

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

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[1] *See* now the Government of India Act.

[2] These words were inserted by s. 40 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.

[3] Bom. Act 9 of 1867 is repealed by s. 2 of this Act.

[4] The original s. 64 was repealed by Act 16 of 1895, and the present section was inserted by s. 41 of the Bombay Abkari (Amendment) Act, 1912 (Bom. Act 12 of 1912), Vol. V of this Code.